

INTHEUNITEDSTATESDISTRICTCOURT
FORTHEEASTERNDISTRICTOFPENNSYLVANIA

ROBERTE.DONNELLY	:	CIVILACTION
v.	:	
STATEFARMINSURANCECOMPANY	:	NO.01-425
ROBERTF.KELLY,J.		FEBRUARY27,2001

MEMORANDUM

PresentlybeforetheCourtisDefendantStateFarmMutualAutomobileInsurance Company's("StateFarm")MotiontoDismissPlaintiff'sComplaint.

TherecordpapersindicatethataComplaintintheabove-captionedactionwasfiledinthe CourtofCommonPleasofPhiladelphiaCountyonJanuary5,2001andremovedtothisCourton January25,2001.The pro secomplaintallegesthaton"December01,1994,whilearesidentof Philadelphia,Pennsylvania,Mr.DonnellywaspassingthroughPasadena,MarylandonWest BoundRoute100andwasinvolvedinaseriousautomobileaccidentand,asaresult,had sustainedperpetualanxietydisorder."Complaintat¶2.TheComplaintfurtherassertsthatState Farm"purposefully[gave]himanadequateamountofmoneyforhisinjurywhileMr. Donnellywasmentallyincapacitated."Complaintat¶¶2-3.

TheComplaintgoesontoallegehatPlaintiffisfilingsuitagainstStateFarmforbad faithasStateFarm"actedinanunprofessionalway."Complaintat¶4.

Eventakingintoconsiderationthelowerscrutinythatfederalcourtsarerequiredto extendto pro secomplaints,Ifindthatthepresentactionsshouldbedismissedbecauseitfailsto stateavalidcauseofactionagainstStateFarm.

It is clear from the Complaint that no contract of insurance existed between Plaintiff and State Farm. Plaintiff has no standing to bring this lawsuit. See Brown v. Candelora, 708 A.2d 104 (Pa. Super. 1998). In that case, the Court specifically stated that an injured driver is not the third-party beneficiary of the insurance contract between the other driver and that driver's insurance company.

Furthermore, the Pennsylvania Bad Faith Statute, 42 Pa. C.S.A. § 8371, specifically requires that a bad faith claim be based on an act of bad faith by an insurer towards an insured. There is no such showing in this case.

The Complaint also indicates that the motor vehicle accident that caused Plaintiff's "perpetual anxiety disorder" occurred in 1994. Although Pennsylvania's Appellate Courts have not yet addressed the issue, the prevailing viewpoint is that the applicable Statute of Limitations period is two years. See Nelson v. State Farm Mutual Auto Insurance Company, 988 F. Supp. 526 (E.D. Pa. 1997). Therefore, in addition to failing to state a cause of action, the Complaint should be dismissed as having been filed beyond the period of the Statute of Limitations. I, therefore, enter the following Order.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERTE.DONNELLY	:	CIVIL ACTION
v.	:	
STATE FARM INSURANCE COMPANY	:	NO. 01-425

ORDER

AND NOW, this day of FEBRUARY, 2001, upon consideration of the Motion to Dismiss filed by the Defendant, State Farm Insurance Company, and the Plaintiff's Response thereto, it is

ORDERED that said Motion is GRANTED, and the above-captioned case is DISMISSED, With Prejudice.

BY THE COURT:

ROBERT F. KELLY, J.